UN

UNITED NATIONS **E**

Economic and Social Council

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Distr.
GENERAL

E/CN.4/1997/SR.46
21 May 1997

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS

Fifty-third session

SUMMARY RECORD OF THE 46th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 8 April 1997, at 10 a.m.

Chairman: Mr. SOMOL (Czech Republic)

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The meeting was called to order at 10.30 a.m.

STATEMENT BY MR. ABDUL BASSIT SEBDERAT, MINISTER OF JUSTICE OF THE SUDAN

1. Mr. SEBDERAT (Sudan) said that progress in the international community's efforts in the field of human rights required specific steps to be taken, as a matter of priority and without delay, to enforce the instruments and resolutions adopted by the international community, to initiate a constructive dialogue and to revise the Commission's methods of work from time to time. Despite the lack of resources and adequate technical expertise, his country had always made a point of fulfilling its international obligations by providing detailed periodic reports to the various human rights treaty bodies and taking their recommendations and observations fully into account.

2. The consideration of human rights violations wherever they occurred was an important aspect of the international community's activity. Such efforts, however, should not be utilized as a weapon in the settlement of political disputes, particularly as the Charter of the United Nations stressed the importance of resolving human rights issues through cooperation. It was fully legitimate for the international community to look into human rights violations occurring in all countries of the world, given the universality of human rights. At the same time, there should be an end to the selective approach by which a few countries were held up as examples while the violations committed by political regimes enjoying the acceptance of certain Powers were ignored. A review of the resolutions adopted annually by the Commission showed the extent of the problem. An immediate revision of the Commission's working procedures was therefore needed, in order that the limited resources available could truly be used for the protection of human beings everywhere, regardless of the political regime in question.

3. Despite the foregoing, the Sudan cooperated fully and unconditionally with the international community's human rights mechanisms. In the past year alone, the Sudanese authorities had twice hosted visits by the Special Rapporteur on the situation of human rights in the Sudan, and, at the Special Rapporteur's request, had conducted investigations into several cases and sent him the results. They had also conducted other investigations requested by the General Assembly, one in the field of slavery and others requested by the Working Group on Enforced or Involuntary Disappearances. Mention should also be made of the visit by the Special Rapporteur on religious intolerance, the invitations extended to the Special Rapporteur on the right to freedom of opinion and expression and to the Chairman of the Working Group on Contemporary Forms of Slavery, and finally, the visit by a delegation from the African Commission on Human and Peoples' Rights.

4. Since coming to power in 1989, his Government had established a timetable for the transition to a constitutional democratic system guaranteeing effective participation by all members of society. Presidential and parliamentary elections had been held in the first half of 1996, in the presence of international observers testifying to the integrity of the elections. Aware as it was of the relevance of administrative arrangements to human rights, the Government had chosen to apply a federal system in order to

guarantee the participation of all in the management of public affairs and an equitable distribution of wealth. The country had been divided into 26 states for that purpose. Action by the central authority had been confined to issues of foreign policy, defence, security and planning.

5. All that had been achieved in the field of human rights in the Sudan might be jeopardized if the Security Council implemented resolution 1070 (1996) on the banning of Sudan Airways flights. Such a ban would lead to a serious deterioration of the living conditions of the Sudanese, whom it would deprive of vital medical care and supplies and freedom of movement, and prevent delivery of humanitarian aid to remote areas, which were totally dependent on the services of Sudan Airways. He noted that the General Assembly and the Commission had repeatedly stressed the fact that economic and political sanctions imposed by certain major Powers represented an obstacle to the promotion of economic, social and political rights. He condemned the calls made by some opposition factions and some volunteer human rights organizations to dissuade international firms from investing in the Sudan. Such attempts would only aggravate the suffering of the Sudanese people.

6. Whatever the Sudan's forms of cooperation with the international community and no matter how complete its administrative and constitutional arrangements, the human rights process would not be fully protected unless the internal armed conflict was ended through peaceful solutions which took the demands of all parties into consideration. As soon as his Government had come to power, therefore, it had convened a national conference which had led to the adoption on 10 April 1996 of a Charter for Peace, which had been signed by the Government of the Sudan and certain insurgent factions. The Charter stressed the need to settle the dispute by peaceful means, the preservation of the territorial integrity of the country, the holding of a referendum to fulfil the political aspirations of the people of the southern part of the country and the commitment to promote the democratic participation of all under a federal system. In the interests of effectiveness, the Charter also provided for the formation of a coordination council between the southern states.

7. As the Charter had not been accepted by all the opposition factions, the Government had chosen to cooperate with the responsible factions that had given priority to the interests of the country and of the people in the South, convinced as they were of the need to stop the bloodshed. It had, however, left the door open for all the opposition elements to join the peace process if they so wished.

8. The escalation of the war of aggression in the southern part of the country by some opposition factions supported by foreign forces had led to serious human rights violations (summary executions, mass killings, rape and population transfers). Even more serious was the fact that systematic human rights violations had spread to the eastern regions of the country. It was most regrettable that some members of volunteer human rights organizations who regularly attended the meetings of the Commission were supporting the foreign aggression being committed in the southern part of the country. He called on all those organizations to behave in a more responsible manner.

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION:

(a) ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS;

(b) NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS;

(c) COORDINATING ROLE OF THE CENTRE FOR HUMAN RIGHTS WITHIN THE UNITED NATIONS BODIES AND MACHINERY DEALING WITH THE PROMOTION AND PROTECTION OF HUMAN RIGHTS;

(d) HUMAN RIGHTS, MASS EXODUSES AND DISPLACED PERSONS (agenda item 9) (continued) (E/CN.4/1997/3, 35-42, 43 and Add.1, 44-46, 47 and Add.1-4, 119 and 131; E/CN.4/1997/NGO/10, 24, 28, 40 and 41; A/51/483 and Add.1, 506 and Add.1)

ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS (agenda item 18) (continued) (E/CN.4/1997/84-86, 88 and Corr.1, 89, 90 and 130; E/CN.4/1997/NGO/33 and 63; A/51/453 and Add.1)

9. Mrs. MATINE-DAFTARY (International Association of Democratic Lawyers) said that even States that had entered reservations to the Beijing Platform for Action made an attempt to improve the situation of women in their country. That was not the case, however, for the Government of Iran, which maintained that human rights were determined on the basis of culture and religion, meaning that women were destined to a role different to that which God had assigned to men. That sectarian attitude was reflected in the Constitution, which stipulated that women should leave the workforce and devote themselves to their vital function, namely rearing ideologically committed human beings.

10. The Civil Code established the supremacy of the father as head of the family and conferred on him unconditional guardianship of the children. In 1982, the age of marriage for girls had been reduced from 18 years to 9 years. Article 1041 of the Civil Code prohibited marriage before the age of puberty except with the consent of the father or guardian. Article 1133 gave a man the absolute right to divorce his wife whenever he wished to do so. Women's right to divorce, on the contrary, was limited to special circumstances. They had to prove extreme hardship and strain, which might take many years.

11. Under the Law of Islamic punishment, the testimony of women did not carry the same weight as that of men and, when a woman was murdered, the blood money was one-half as much as would be paid for a man. Article 630 of the newly revised section on penalties allowed a husband to murder, maim or beat his wife or her presumed lover. Article 49 of the Code provided that the criminal responsibility of a girl began at the age of "religious maturity", or 9 years. Under article 638, women were compelled to wear a veil from head to toe, subject to imprisonment or a fine. At the discretion of the Shariah judge, an insufficiently veiled woman might be sentenced to 74 lashes for lack of piety. Arrests and persecution in the streets and dismissal from school,

university and work were common practices. Article 82 (b) specified that adultery by a woman was punishable by stoning to death. Such sentences obviously constituted cruel, inhuman and degrading punishment and were, moreover, inflicted for acts that could not be considered as crimes punishable by law.

12. Women were not considered wise enough to pass judgement. In 1979 all women judges had been dismissed.

13. In an ideological system that demanded unity of conduct, expression and thought, independent women's or human rights organizations could not be formed.

14. Mr. TOTSUKA (International Fellowship of Reconciliation) said that his organization appreciated the significant work of the United Nations mechanisms on the question of violence against women, in particular the issue of military sexual slavery by Japan during the Second World War. It noted with satisfaction the report of the International Labour Organization's Committee of Experts on the Application of Conventions and Recommendations, which had again concluded that Japan had violated the Convention and urged Japan to take its responsibility towards the victims. Unfortunately, the Government of Japan had not accepted the recommendations of the Committee of Experts. There had, however, been positive responses to the recommendations in Japan. Many members of the Japanese Diet were joining a movement for legislation establishing an investigative committee on sexual slavery by the Japanese military and providing for direct State compensation of the victims. A number of non-governmental organizations in Geneva had recently received letters from two Diet members indicating that many of their colleagues were prepared to support the draft legislation. The authors of the letter also indicated that, without waiting for the results of the investigation, a private body established by the Japanese Government, the Asian Women's Fund, had begun distributing compensation raised from public donations to 16 surviving victims in the Philippines and South Korea.

15. His organization requested the Commission to continue to address that issue and urged the Japanese Government to cooperate with the Diet members in their efforts to secure a State investigation and direct State compensation of the victims.

16. Mrs. NAZIR (International Human Rights Law Group), speaking also on behalf of the Organisation des femmes chrétiennes pour la démocratie et le développement and Promotion Appuis Initiatives Féminines, said she would address the question of violence against women, particularly in the context of armed conflicts. She applauded the work of the Special Rapporteur on violence against women in exposing many forms of violence against women. Her organization strongly supported the renewal of the Special Rapporteur's mandate to enable her to investigate in 1998 such important issues as State violence against women and violence against women in conflict situations.

17. In Haiti, systematic violence had been perpetrated against women under the military regime. The rape of women as a form of political repression had been common. Yet Haiti's criminal justice system had failed to bring the perpetrators of sexual violence to justice. The new democratic institutions

must guarantee that women's human rights were protected and that women had access to justice. Haiti's history of impunity had created official tolerance for ongoing violence against women. Her organization supported the Independent Expert's call for training of the national police and judicial officials with particular attention to the investigation and prosecution of abuses of women's human rights.

18. In Zaire, women constantly struggled against de facto and de jure inequalities. The current concept had resulted in large-scale displacement of Zairian women and their families and exacerbated the abuses suffered by refugee women. Pregnant women were particularly vulnerable, and were frequently forced to give birth on the road without even rudimentary assistance.

19. In Afghanistan, most factions had engaged in violence against women as a weapon of war. There were reports that rape by the forces of General Dostom in the Badghis province was continuing. In the past two years, the Taliban had imposed draconian restrictions on women's rights to movement, health and education. Women who refused to comply with restrictive dress codes risked public beatings; women's access to health facilities, including bathhouses, was banned. Those and other restrictions drastically limited women's role in the economic and political life of their country, including initiatives for peace. Her organization condemned those policies and called on all parties to the conflict to respect the internationally guaranteed human rights of all people in Afghanistan.

20. Mrs. BOONTINAND (International Abolitionist Federation) said that, according to an international investigation carried out by the Global Alliance against Trafficking in Women and the Foundation against Trafficking in Women, State policies and legal instruments on "trafficking" were as likely to prohibit, punish and deter female travel and labour as to target individual or State violations of female liberty. They often functioned in fact as mechanisms of discriminatory social control, whether camouflaged as protection of innocent women or as punishment of corrupt men and fallen women. The ambiguity inherent in existing "anti-trafficking" measures derived from the hidden - at times - State intention to use the violence of men as an excuse for controlling women, in particular their mobility and labour.

21. The report of the investigation concluded that a new definition of "trafficking" should be formulated based on accepted international human rights standards and targeting both improper recruitment practices and illicit labour conditions. The new definition should be based on recognition of the right of a woman to have control over her own life and body and on the interests and problems of women rather than States' interest in restricting immigration or combating organized crime. Measures should first and foremost address violence against the women subjected to the trafficking. The definition should also take account of trafficking within and across national borders, cover all spheres of women's lives and work and prohibit all forms of coercion.

22. In general, policies and measures to address the violations of human rights in the context of "trafficking" should be directed towards empowering the women concerned and enabling them to regain control of their lives and

speak up for their own rights. That could be achieved by ensuring the civil and political, economic, social and cultural rights of women as persons and workers; guaranteeing legal protection and possibilities for redress to victims of violence; and enforcing existing gender-neutral laws against deceit, violence, confinement, debt-bondage and other forms of coercion in the context of recruitment or labour.

23. Mr. GILANI (World Society of Victimology) drew the Commission's attention to a specific situation where the ineffective mechanisms of the United Nations had been a major factor in population displacement. In Jammu and Kashmir, the United Nations had not succeeded in making a reality of its commitment to the displaced persons and India had not respected the right of the refugees, whether they were in Pakistan or in camps in Jammu, to return home in safety and dignity.

24. Another cause of displacement in various parts of Kashmir was the application of laws authorizing the security forces to enter households at any time of the day or night in the name of a routine check. The inhabitants were thus denied all respect and dignity and chose displacement to avoid such abuse.

25. His organization had transmitted to the Commission, the Special Representative of the Secretary-General on internally displaced persons and the High Commissioner for Human Rights a detailed report on internal displacement in Jammu and Kashmir. It hoped that the report would assist them in taking appropriate measures to help those population groups and to raise public awareness of their situation. It called on the Commission to encourage India and Pakistan to agree on common points of entry and exit on the ceasefire line and allow the displaced persons to cross the line, as the two Germanies had done during the most difficult period of their history.

26. Mrs. GIRMA (African Association of Education for Development) said that, with the African continent convulsed by wars and civil strife, the number of refugees and displaced persons was on the rise. Refugees were being used as pawns in armed and political conflicts between Governments and their opponents. Their living conditions and human rights situation were frequently cynically exploited by the media. Refugees, including children, were also forcefully recruited into the armed forces of political movements supported by host countries.

27. Against that background, women were increasingly vulnerable and were victims of rape, often by camp security officials as well as the soldiers of the host countries' armed forces. UNHCR and the Centre for Human Rights should be working to empower women. A pragmatic and conciliatory approach would help create more peaceful and harmonious conditions.

28. Despite verbal concerns for the safety and well-being of the refugees, it was evident that most refugees and displaced persons lacked effective protection by UNHCR and the Centre for Human Rights. By their own admission, those United Nations bodies and agencies were more accountable to Governments and governing bodies than to the refugees themselves. Yet many refugees, particularly those in camps close to borders, were exposed to armed attacks, at times with the agreement of the host country and in collusion with those

responsible for security in the camps, by "bandits" reportedly linked to Governments. Finally, political refugees who fled oppression and sought asylum were frequently exposed to the humiliations of racism and xenophobia.

29. Brother QUIGLEY (Franciscans International) said that, faced with the urgency of finding practical solutions to the problems of internally displaced persons, he would underline some of the proposals recommended by specialized international bodies. The report of the Special Representative of the Secretary-General (E/CN.4/1997/43) had highlighted the existence of large lacunae in international law regarding guarantees for the protection of internally displaced persons and noted the absence of protection mechanisms for them during the phases of displacement and return. It was to be hoped that those gaps could be filled.

30. Although it was clear that the protection of internally displaced persons must be guaranteed, special attention must also be given to preventing such situations. It was essential directly to address the leading causes of internal displacement: internal political and military conflicts.

31. In that connection, his organization drew the Commission's attention to the situation in Colombia, where the number of internally displaced persons had increased to more than 1 million in the past 10 years. Key causes of internal displacement were paramilitary activity - there currently existed 600 civilian militias, 507 of which enjoyed the official recognition of the Ministry of Defence - and the inefficient governmental policies for assistance and prevention. Paramilitary groups systematically destroyed rural communities from the inside. Rural leaders were forced to flee or were killed. Paramilitary groups were permanently settled in most communities, making the return of the internally displaced impossible. The presence of United Nations human rights observers in the field was proving very necessary, as recommended by the Special Representative of the Secretary-General in his report.

32. Mr. HASHEMI (International Falcon Movement - Socialist Educational International) said that combating terrorism had become a major issue for the international community. In recent years religious extremism had been a main source of terrorism. Religious extremism had nothing to do with the teachings of any religion, however. The use of terrorism by certain Governments had made the phenomenon even more dangerous.

33. In resolution 1995/18 of August 1995, the Sub-Commission on Prevention of Discrimination and Protection of Minorities had requested that the Government of the Islamic Republic of Iran cease forthwith any involvement in or toleration of murder and State-sponsored terrorism against Iranians living abroad and the nationals of other States. The response to that demand had been a 300 per cent increase in terrorist attacks against Iranian dissidents abroad in 1996 over 1995. He referred in that connection to a number of killings and attempts since the beginning of 1996, published in a report by the British Parliamentary Human Rights Group, which attributed them to agents of Tehran. In March 1996, German judicial authorities had issued a warrant for the arrest of the Iranian Minister of Intelligence for his involvement in

killings committed in Berlin. The Federal Prosecutor in his indictment had accused Mr. Khamenei and Mr. Rafsanjani, the highest authorities of the Iranian State, of ordering the assassinations.

34. The planning and execution of terrorist crimes was not an activity of separate groups within the hierarchy of the Iranian regime. Hassan Rohani, Secretary of the Supreme Security Council, had said that Iran would not hesitate to destroy its opponents' centres of activity and assembly abroad and added that to do so would not contravene international law or human rights.

35. The United Nations ought to deal more decisively with a Member State which deliberately and systematically violated the right to life in other countries where its exiles had sought refuge. For that reason, his organization urged the Commission to adopt a resolution strongly condemning the use of terrorism by the Iranian regime against its opponents abroad and refer the issue to the United Nations Security Council for the adoption of binding measures against such use of terrorism.

36. Mr. WICHERT (Friends World Committee for Consultation) said that the main obstacle to finding durable solutions to the problem of refugees and displaced persons, as indicated in the Compilation and analysis of legal norms relating to internally displaced persons prepared by the Special Representative of the Secretary-General, Mr. Deng (E/CN.4/1996/52/Add.2), lay in the unwillingness of States and opposition movements to respect their obligations.

37. A number of concrete measures could be taken. First, the Compilation and analysis should be disseminated widely, as the Commission had urged in 1996. In that connection, he commended the High Commissioner for Refugees on producing a reference manual for UNHCR staff based on the Compilation. As the situation in some of the 12 countries visited by Mr. Deng had deteriorated, those countries must redouble their efforts to implement his recommendations and suggestions and, at the very least, cooperate with the High Commissioner for Human Rights on programmes of advisory services and technical cooperation. Other countries should follow the example of Burundi, Colombia and Rwanda, which had cooperated with the High Commissioner in setting up a field presence. United Nations activities to assist displaced persons needed to be improved. It was regrettable that the Department of Humanitarian Affairs had stopped convening meetings of the Task Force on Internally Displaced Persons, thus depriving the Commission of an important follow-up forum for its resolutions on internally displaced persons. United Nations agencies needed to work together on issues such as information gathering and analysis, technical cooperation and monitoring. In particular, UNHCR and the High Commissioner for Human Rights must enhance cooperation in areas where their mandates overlapped, such as Rwanda, Burundi, Zaire, Malawi, Cambodia, Georgia and the former Yugoslavia. In order for the reports submitted to the Commission to be focused and relevant, UNHCR and the High Commissioner for Human Rights should work together on the report on mass exoduses. Finally, the Commission might give consideration to combining the resolutions on mass exoduses and internally displaced persons into a single resolution, perhaps entitled "Human rights and forced displacement".

38. Mrs. BLOEM (World Federation of Methodist Women), speaking on behalf of several NGOs, noted that some progress had been made in placing gender concerns in the mainstream of the human rights mechanisms of the United Nations. She regretted, however, that Commission resolution 1996/48 on integrating the human rights of women throughout the United Nations system had not been utilized more widely as a legislative authority for the preparation of reports for the Commission. Consequently, she urged the Commission fully to integrate gender concerns into the agenda of its forthcoming sessions. The five-year review of the Vienna World Conference on Human Rights, to take place in 1998, should include an assessment of the achievements made and obstacles encountered in that field, which could be conducted through ongoing monitoring of performance indicators, mechanisms for accountability, impact analysis and identification of best practices.

39. All the treaty bodies should closely examine State party reports to guarantee that women were protected from violence and discrimination. To that end, they should include gender concerns in their guidelines for the preparation of reports and ask States to provide disaggregated data. States, for their part, should ratify without reservations the Convention on the Elimination of All Forms of Discrimination against Women and the International Covenants on Human Rights.

40. She expressed uneasiness over the current reorganization of the Centre for Human Rights and disappointment over the fact that there was, as yet, no high-level adviser on gender issues in the High Commissioner's office despite the recommendation to that effect the previous year.

41. She expressed appreciation for the report of the Special Rapporteur on violence against women (E/CN.4/1997/47 and Add.1-4), and said that her organization applauded its recommendations on combating rape and sexual violence, which included the need for State financing to help with victim support services, awareness-raising programmes and legislative reforms to abolish laws which pressured women rape victims into marriage and then absolved their rapists from prosecution. It also supported the Special Rapporteur's recommendations aimed at ending the traffic in women and girls, which had reached epidemic proportions and whose victims were becoming younger and younger. She called on States to establish national agendas for action in that area and to implement commitments made at the Fourth World Conference on Women and the World Congress against Commercial Sexual Exploitation of Children in Stockholm and to institute measures for the criminalization of perpetrators. Such measures required the cooperation of police forces and the judiciary at international and regional levels, and, at the national level, a multisectoral approach to ensure the reintegration of victims into their societies. Governments and international financial institutions should also revise their economic policies to take account of the link between the traffic in women, poverty and unemployment.

42. Finally, States should recognize that migrant women often suffered double discrimination because of their gender and ethnic background and should be given more protection. State ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their

Families was an essential first step. She fully supported the three-year extension of the mandate of the Special Rapporteur, whose work had given hope to women throughout the world.

43. Mr. ABDUL AZIZ (International Islamic Federation of Student Organizations) said that the right to freedom of movement established in article 13 of the Universal Declaration of Human Rights could be used to move mountains, as attested by the fall of the Berlin wall. Yet there were many more Berlin walls throughout the world, such as the cease-fire line in Kashmir. Heavily guarded by troops from both India and Pakistan, it had been separating families for 50 long years, with absolutely no geographical or historic legitimacy.

44. Since 1947 the people of Kashmir had been deprived of their right to freedom of movement and were instead being subjected to displacement, expulsion and exile with no possibility of return. While the international community must address the needs of refugees and the task of reunifying families, it must also resolve the root causes of the problem, for, as the Special Representative of the Secretary-General had stated, humanitarian assistance and an international presence could not always prevent further displacement unless they were accompanied by measures aimed at political solutions to conflicts. That approach might serve as the basis of a comprehensive United Nations strategy for settling the conflict. The Commission should initiate the establishment of a United Nations commission for Kashmir, which would coordinate a United Nations-wide effort to enable India and Pakistan to resolve the displacement problem while respecting the human rights of the Kashmiri population. For the 2 million persons displaced in the last 50 years, the silence of the international community had been a cause of intolerable uncertainty. If a State was not in compliance with the will of the United Nations, it jeopardized the entire world balance. It was the Commission's duty to put an end to the crimes against humanity in Kashmir. If it failed to carry out that task, it would not be living up to the obligations of its mandate.

45. Mr. WAREHAM (International Association against Torture - AICT) said that he would address three areas in which the use of a double standard hampered the Commission's work.

46. With regard to violence against women, AICT had been among the many voices which for years had urged the Japanese Government to redress the violations of human rights it had committed during the Second World War, notably against "comfort women", who had been forced to be sexual slaves to the Japanese military. During that period, Japan had manoeuvred in every way possible to avoid admitting its guilt. The credibility of the Commission would be undermined if it could not marshal all its influence to induce Japan to redress its errors.

47. In connection with human rights, mass exoduses and displaced persons, he said that many people, desperately seeking to improve the quality of their lives, had been forced to leave their native lands to take jobs in developed countries which the local population found menial. But as they became unemployed due to the economic recession, they were forcibly evacuated, with the popular press stoking the fires of xenophobia. That phenomenon could be

seen throughout Europe, but its clearest expression was in the United States, where recently adopted laws flew in the face of human rights. The Welfare Reform Act passed by the United States Congress in 1996 limited, and in many cases denied, social benefits to immigrants and their children, in violation of their economic, social and cultural rights. Those violations had worsened with the adoption, in September 1997, of a new immigration law which made it harder for immigrants to enter the United States and easier to expel them, and also made it harder to win asylum. It was no accident that the doors to the United States were being shut at a time when the overwhelming majority of those seeking entry were people of colour. That was the racist policy of the same Government whose Permanent Representative to the United Nations had, the previous week, criticized the adoption of "exotic" human rights instruments.

48. With regard to the Commission's methods of work, he said that the work of the Commission was invaluable, but risked losing credibility through lack of transparency and a double standard, as illustrated by the reaction to calls for a World Conference on Racism in 1999. In the 1990s there had been world conferences on the environment, human rights, social development, human settlements and women, but when the issue was racism, there was suddenly no urgency. In the negotiations on the relevant draft resolution, the Group of Western European and Other States, with the ringleader, as usual, being the United States, had offered textbook examples of unprincipled manoeuvring, distortions of the facts and attempts at outright coercion when all else failed. It must be made clear to all members and observers that failure to respect the principles of equality and transparency would destroy the Commission's integrity. The Commission could not tolerate double standards.

49. Mr. BALA RAM (Nepal), speaking in exercise of the right of reply in connection with an allegation repeated by the World Organization against Torture according to which a woman refugee had been raped by seven police officers, confirmed the fact that as soon as the incident was reported a team had immediately been dispatched for investigation. According to available information, no policemen had been involved in the incident and the police were continuing to seek the guilty parties. As for allegations of police ill-treatment of prisoners and asylum-seekers, he said that Nepal was a party to 14 human rights conventions and protocols, including the Convention against Torture, and would not tolerate any incidents of that type. Nepal's legislation set forth harsh punishment for rape, which carried a penalty of seven years' imprisonment, with half the rapist's property being given by the court to the victim.

50. Replying to questions raised at the preceding meeting by the South Asian Human Rights Documentation Centre, he said that the adoption of the law establishing the National Human Rights Commission had been the culmination of large-scale consultations with NGOs, human rights workers, legislators and representatives of the Government. There were no classified laws in Nepal, since all laws adopted by Parliament had to be published in the Official Journal. He expressed appreciation at the continuing dialogue between Nepal and Bhutan concerning the refugee crisis.

51. The CHAIRMAN noted that the Commission had concluded its consideration of agenda items 9 and 18.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES, INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS

(agenda item 10) (continued) (E/CN.4/1997/5 and Add.1, 8, 9, 48-50, 53, 54, 55 and Corr.1, 56-59, 60 and Add.1, 61, 62 and Add.1, 63, 64, 113, 114, 118, 123-125, 129 and 132; E/CN.4/1997/NGO/3-6, 12, 14-17, 21, 25 and 27; A/51/457, 460, 466, 478, 479, 481, 490, 496, 538 and 542/Add.2)

52. Mr. DEGNI-SEGUI (Special Rapporteur on the situation of human rights in Rwanda), introducing his report (E/CN.4/1997/61 and Add.1), said that he had made two visits to Rwanda in 1996, to assess the situation regarding the genocide, current human rights violations and the problem of refugee return.

53. Two problems were raised by the genocide: the inquiry into the genocide and the proceedings against persons suspected of genocide. The inquiry, which had focused on the underlying causes of the hostilities that had broken out in 1994, had identified two major categories of factors. The first, political and historical, appeared to be decisive, whereas the second, economic, social and cultural, appeared to have combined with the first to serve as a catalyst for the political dimension of the conflict, culminating in genocide. The inquiry had also pointed out the special situation of vulnerable groups, of which the main victims were women, especially as rape had been used as a weapon of war. Children, including infants, had not been spared by the killings and had been doubly victimized by either being forced to participate or by witnessing atrocities committed against their parents, when they had not been targeted themselves.

54. Practically no progress had been made on the other problem, proceedings against persons suspected of genocide, despite some modest first steps in that direction, including the opening of the proceedings of the International Criminal Tribunal for Rwanda. At the international level, only 30 or so of the 400 suspects identified by the Prosecutor had been indicted. At the national level, in August 1996 Rwanda had passed an Act organizing proceedings against persons suspected of genocide, under which the trials in the Rwandan courts had begun in mid-December. But the trials had been hindered by institutional and procedural difficulties linked to the fact that the judicial personnel had only been partially replaced and lacked training and to the fact that basic guarantees were lacking (independence of the judiciary, presumption of innocence and defence rights).

55. In addition, disturbing violations of property rights, freedom of expression, personal security and physical integrity continued to occur. Violations of property rights, which basically consisted of illegal occupation of property, had worsened with the large-scale return of refugees at the end of 1996. The Rwandan Government's policy, based on housing renovation, had not yielded satisfactory results for lack of financial means. Violations of freedom of expression (censorship, acts of intimidation, abductions and killings) targeted journalists, clergymen, judges, human rights workers and political activists. Violations of the right to personal security, which took the form of arbitrary arrest and detention of persons suspected of

participation in the genocide, had increased considerably during two periods of political tension - the April-May 1996 census period, which had ended in a veritable witch-hunt for the perpetrators of the genocide, and the searches to find and arrest infiltrators in July and August - and with the large-scale return of refugees at the end of the year. The prison population had risen from 66,000 detainees in March 1996 to more than 102,000 in March 1997, which was more than the prisons' total capacity.

56. Violations of the rights to physical integrity and life had also started up again during two periods, the first from June to July and August to September 1996. Persons who had infiltrated from neighbouring States, particularly Zaire, had committed acts of sabotage and murders, leading to an equally brutal response by the Rwanda Patriotic Army, which had conducted raids, kidnappings, summary executions and even massacres. The second period covered the first quarter of 1997, when the Human Rights Field Operation in Rwanda had recorded, for the month of January alone, 424 summary executions in connection with incidents attributed to the former Rwandan Army, militias and the Rwanda Patriotic Army. The Field Operation itself had lost five of its members, executed in cold blood in February 1997, which had led it to refocus its activities.

57. The problem of refugee return, which partially explained the fresh outbreak of human rights violations, had sorely tried UNHCR's strategy and had completely changed because of the crisis in Zaire. On 11 October 1996, UNHCR had adopted a new comprehensive and integrated strategy for rapidly repatriating refugees through use of the following measures: gradual closing of the camps, individual determination of refugee status, strict application of the exclusion clause to alleged perpetrators of genocide, transfer of the persons sought to the International Criminal Tribunal. The crisis in Zaire, however, had jeopardized all the hopes that strategy had raised. There were two closely linked aspects to the crisis in Zaire, which was military, political and humanitarian in nature: the military clashes between the Banyamulenge Tutsis and Zairian Armed Forces and the mass exodus of refugees, who had first gone to inhospitable regions that were inaccessible to the humanitarian organizations and then to Rwanda. More than 1 million refugees had been forced to leave Zaire and Tanzania and return to their country of origin. Worst of all, the international community, in the face of such a serious crisis requiring urgent solutions, had been slow to react and was still delaying taking all the appropriate measures.

58. He therefore recommended that the following measures should be taken, as a matter of urgency: appropriate steps should be taken to transport emergency aid to the refugees and repatriate them in safety and dignity; an emergency international conference on the Great Lakes region should be convened in order to resolve the various problems afflicting the region; appropriate measures should be taken to prevent the outbreak of a widespread conflict that would endanger the stability of the entire region; the International Criminal Tribunal should be given sufficient human and material means to fulfil its mission as effectively as possible; the States which had admitted persons being sought by the Tribunal should be asked to transfer them for trial; the Rwandan Government should be provided with more substantial assistance in prosecuting the alleged perpetrators of the genocide in order to end the

tradition of impunity; and the Rwandan Government should be called on to take appropriate measures to ensure true respect for human rights and fundamental freedoms.

59. Mr. GARRETON (Special Rapporteur on the situation of human rights in Zaire), introducing his report (E/CN.4/1997/6 and Add.1-2), said that the events in 1996 had made it necessary for him to conduct two unanticipated field missions, the first in July, when the Masisi war had broken out in Northern Kivu, and the second from 25 to 29 March 1997, to inquire into allegations of massacres committed by the rebel forces. He was disappointed at the lack of cooperation from the Government of Zaire, which had not replied to any of the seven communications he had sent it and which, in July, had not agreed to his visiting the eastern part of the country to inquire into allegations of serious violations of human rights committed in Northern Kivu by the Zairian Armed Forces (FAZ) against Zairians of Tutsi origin.

60. The human rights situation had not improved significantly in 1996 as compared with 1995. Torture and ill-treatment, especially involving the rape of women in the prisons, were continuing. No improvement had been noted in the situation of economic, social and cultural rights, status of women and children, conditions of detention, administration of justice or the right to information. Members of non-governmental organizations were being threatened, persecuted or imprisoned. The establishment of a national commission for the protection and promotion of human rights, including no representatives of any of the human rights defence bodies, had been greeted with complete indifference. No effort had been made to settle the problem of the nationality of the Banyarwandas. The Batutsi of Northern Kivu had been expelled (E/CN.4/1997/Add.1), while those of Southern Kivu had revolted. The single positive event had been the establishment, on 10 December 1996 in Kinshasa, of an office of the High Commissioner for Human Rights to help the Government and NGOs promote and protect human rights.

61. No progress had been made in the democratic process, except for the establishment of a National Electoral Commission. The Government could not use either the conflict in the eastern part of the country or the lack of external aid as arguments to justify that situation. The democratization process had already been at a standstill before the outbreak of the conflict, and the Government would not have needed external aid to allow the free expression of the people's will and introduce pluralism in the media.

62. As for the conflict in Kivu province, which could have been avoided through dialogue, none of the parties had respected the obligations set forth in article 3 common to the four Geneva Conventions. The following were among the causes of the conflict: arbitrary drawing of the borders during colonization; the 1981 decision by the Zairian authorities to deny Zairian nationality to the Banyarwanda on a collective basis; the large-scale arrival of Rwandan refugees in 1994; attacks carried out by the refugees belonging to the former Rwandan Armed Forces (FAR) and the Interahamwe militias, with the support of the FAZ; attacks against the Batutsi of Northern Kivu; and incendiary anti-Rwandan statements by the Zairian national and regional authorities. All the parties to the conflict - the Alliance of Democratic Forces for the Liberation of Congo-Zaire (AFDL), which had been joined by foreign soldiers, notably Rwandans; the FAZ; the former FAR; and the

Interahamwe militias - had committed some very serious violations of human rights and international humanitarian law (see E/CN.4/1997/6, paras. 190-207). The Special Rapporteur's report prepared in December 1996 (paras. 197-202) specifically referred to atrocities committed by AFDL, notably against civilians, stressing its habit of separating men - who were never heard from again - from women and children.

63. Regrettably, there had been no reaction to that report. Not until February 1997 had some Governments and media published exactly the same information, in the light of which the Security Council and the High Commissioner for Human Rights had decided to ask the Special Rapporteur to carry out a field mission. Despite the notoriously inadequate resources at his disposal, he had been able to gather a substantial amount of testimony, which, although there were occasionally considerable differences as to the number of victims, corroborated the fact that massacres had indeed taken place, notably in Lemera, Kidote, Bukavu, Goma, Matanda, Katale, Mugumba, Chimamga, Nyakariba and Nyamitaba.

64. In view of that situation, the Special Rapporteur's report on his mission to eastern Zaire (E/CN.4/1997/6/Add.2) recommended the establishment of a commission to investigate the gross violations of the right to life committed in the region. He referred in that connection to the recommendations he had made in his previous reports, practically none of which had been implemented, namely the effective separation of police and defence forces and an end to the impunity enjoyed by them, the independence of the judiciary, respect for NGOs and the institution of a climate of respect for all the country's inhabitants, free of any ethnic discrimination. However the conflict in eastern Zaire developed, democracy must be introduced as soon as possible if the current crisis was ever to be mastered.

65. It was urgent for Zaire to ratify Protocol II Additional to the Geneva Conventions. All the parties to the conflict were bound to respect the provisions of article 3 of the Conventions. In particular, the Government must refrain from any incitement to national or racial hatred. The AFDL must not consider all Rwandan refugees to be former members of the FAR or the Interahamwe militias. All the parties to the conflict must also cease hindering the delivery of humanitarian aid and accusing the humanitarian agencies, especially UNHCR, of collusion with the enemy, while they were only doing their duty of helping the suffering, on whichever side.

66. One aspect was crucial: the peace talks that had just begun and for which he had fervently hoped six months earlier could not culminate in a lasting peace if - as unfortunately appeared to be the case - the question of human rights and democracy was not duly taken into consideration. The international community must do its part to help rebuild Zaire, settle the problem of the refugees and displaced persons, restore the environment and introduce a democratic State in accordance with the will of the Zairian people; the role of the office of the High Commissioner for Human Rights in Kinshasa should also be strengthened and extended to the country as a whole.

67. Mr. PINHEIRO (Special Rapporteur on the situation of human rights in Burundi), introducing his report (E/CN.4/1997/12 and Add.1), said that the Commission should adopt a concerted approach and recommend concrete solutions

to resolve the serious crisis in the Great Lakes region. The remarks of the representative of Burundi at the 18th meeting notwithstanding, his sole concern had always been to help the authorities and people of Burundi to resolve the crisis, on a completely impartial basis. In that connection, he commended the efforts of the Special Representative of the Secretary-General for Burundi, the United Nations bodies, the Centre for Human Rights and human rights observers and the NGOs, which, despite the difficulties due to the economic sanctions imposed on the country, had managed to maintain most of their assistance activities for the victims of the Burundi conflict.

68. He regretted that, despite the assurances given by Major Buyoya after taking power in July 1996, practically no progress had been made concerning the democratic transition, the introduction of the rule of law and the beginning of a genuine dialogue with the rebels and opposition political parties. Recently, citizens who had criticized the Burundi authorities had been harassed and prosecuted, and each day the country was plunging further into war, with its host of victims, principally women, children and elderly people.

69. He was also concerned at the serious humanitarian consequences for many of the rural poor of the Government's policy of forced resettlement, which the authorities claimed was the only way of ensuring the people's safety. The number of civilians resettled in camps had already reached 200,000 and might rise as high as 500,000, in addition to the 300,000 internally displaced persons. The individuals in question could only visit their fields for a brief period every day, with the result that cases of malnutrition had already been reported in several camps.

70. For the humanitarian agencies and donor countries, continuing to help the people under the conditions set by the authorities amounted to endorsing the resettlement policy and exposing themselves to reprisals by the rebels. For that reason, before providing assistance, those agencies should ensure that the Burundi authorities guaranteed human rights observers access to the camps, in order for them to note or prevent human rights violations.

71. Concerning the abuses committed by the armed forces, he commended the Government's efforts to combat the impunity enjoyed by the perpetrators. Several members of the security forces and the armed forces had been sentenced to long prison terms for massacres committed in various regions of the country. In that connection, an international tribunal should be established to try those who had planned and carried out the assassination of President Ndadaye and the ensuing massacres. He also strongly condemned the numerous acts of violence committed by the rebels in several regions of the country, which had resulted in numerous civilian casualties.

72. Although the Sanctions Committee had lightened the economic sanctions for humanitarian reasons, they continued to have disastrous consequences on the already harsh living conditions of most of the population, especially in the areas of food and health.

73. To end the violence in the Great Lakes region in general and Burundi in particular, the international community might perhaps decide to order an

embargo on the sale of arms in that region. Arms proliferation served the purposes of those who wished the disorder to continue; the people concerned wished only to live in peace.

74. He urged the international community to stop dragging its feet and help settle the crisis in the Great Lakes region. Regrettably, the Special Rapporteurs of the Commission on the human rights situations in Burundi, Rwanda and Zaire had not been included in the initiatives taken by several international bodies to attempt to resolve the crisis, especially to help the refugees and displaced persons return home under satisfactory safety conditions. It was more necessary than ever to hold a conference on peace, security and development in the Great Lakes region, based on the tireless efforts of the Special Representative of the Secretary-General to develop the components of a global strategy.

75. The international community would be severely judged by history if it continued to avoid its responsibilities towards to the new humanitarian disaster and the acute suffering of the people in the Great Lakes region.

The meeting rose at 1.20 p.m.